

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3RD DAY OF APRIL 1998

Before :

THE HON'BLE MR.JUSTICE G.PATRI BASAVANA GOUD

WRIT PETITION No.30856/1996

Between :

1. Superintending Engineer,
Public Works Department,
Mangalore.
2. The Executive Engineer,
Public Works Department,
Mangalore.

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.. Petitioners

(By Sri.K.H.Jagadish, HCGA)

And :

1. Sri.Muthu, major,
S/o. Koraga,
Kumbasi Post,
Kundapura D.K.
2. Authority under Payment
of Gratuity Act,
Hassan.
3. Labour Commissioner,
VISL Building, J.C.Road,
Bangalore.

.. Respondents

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This writ petition is filed under Articles 226 & 227 of the Constitution of India praying to quash the order dated 28.11.94 vide Ann.B by R3 confirming the order dated 28.2.1990 by R-2 vide Ann.A.

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This writ petition is coming on for orders this day, the Court made the following :

O R D E R

In this writ petition under Articles 226 & 227 of the Constitution, the petitioners-employers seek quashing of the orders of Respondents 2 and 3 at Annexure-'A' and 'B' viz., of the Authority under the Payment of Gratuity Act, 1972 ('Act' for short) and of the Appellate Authority respectively. Under Annexure-'A', the 2nd respondent-Authority under the Act directed payment of gratuity of Rs.5,077/- to the 1st respondent-employee for the 18 years of service that the 1st respondent had put in ^{with +} ~~service~~ of the petitioners. The petitioners-employers Preferred appeal to the 3rd respondent, that came to be rejected as Per the order at Annexure-'B'.

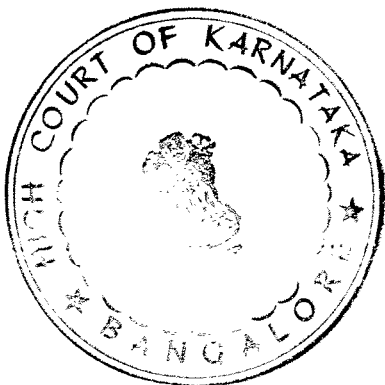
2. Having regard to the material on record, the 2nd respondent-Authority has found on facts that, in respect of 18 years of service that the 1st respondent had put in and also having regard to the wages that he was drawing, the 1st respondent was due to be paid a sum of Rs.5,077/- by way of gratuity as calculated under Section 7 of the Act.

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Having regard to the material on record, this finding on facts cannot be called perverse.

3. The petitioners approached the Appellate Authority-3rd respondent without compliance with second proviso to sub-section (7) of Section 7 of the Act i.e. without making the requisite deposit of the amount that is determined as the amount payable as gratuity to the 1st respondent. The 3rd respondent-Appellate Authority has, therefore, rightly rejected the appeal. There is no infirmity in Annexure 'A' and 'B'.

4. Writ petition is dismissed with a direction that the petitioners shall deposit with the 2nd respondent-Authority under the Act the amount of gratuity payable to the 1st respondent in terms of Annexures-'A' and 'B' within three months from today, to withdraw which, the 1st respondent would be at liberty.



Sd/-
JUDGE